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**THE IMPACT OF ISSUING OC SPRAY ROUTINELY TO
CORRECTIONAL OFFICERS: A REVIEW OF THE LITERATURE
WITH SPECIAL REFERENCE TO KENT INSTITUTION**

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1.0 Background

In 2004, Kent Institution, a maximum security facility located in British Columbia, experienced a disturbance. Once this disturbance was settled, 19 correctional officers (COs) at this institution refused to go back to work, claiming that they faced undue dangers in their workplace. They declared that they would not return without being regularly issued OC spray (also known as pepper spray) and being authorized to carry canisters of this spray on their belts at all times. Previously, the spray had been issued to COs on a temporary basis whenever a disturbance occurred or when daily institutional risk assessments concluded that employees were exposed to an elevated risk of harm. However, Correctional Service of Canada's (CSC) policy has always been that once an elevated risk is no longer present, the OC spray is returned and stored in the central command post.

The refusal to work led to an investigation and subsequent judgement under the *Canada Labour Code*, stating that the dangers these COs work under are a normal condition of their employment. Based on this judgement, CSC contends that it is not necessary for COs to regularly carry OC spray and the decision to issue the spray should be, as in the past, based on a daily risk assessment inside each institution. Following this judgement, UCCO launched an appeal maintaining that OC spray should be standard issue for all COs in CSC institutions. The case is scheduled to go to a labour hearing in April 2009.

While other law enforcement agencies, including Fisheries and Oceans, the Canada Border Services Agency, Parks Canada and local and national police forces, carry OC spray as standard issue, CSC takes the position that it has other options for control inside correctional institutions within their jurisdiction. CSC believes that not only is OC spray unnecessary, but that it sends the wrong message to inmates, widens the communication gap between inmates and employees, and may even serve to provoke inmates.

CSC further believes that rather than relying on increased weaponry and other static security measures, practicing dynamic security skills (e.g., being alert and working closely with inmates) makes staff much more aware of possible threats to security before they occur. Hence, for the Correctional Service this latter approach represents the best approach to safeguarding the safety of employees within federal institutions.

2.0 Objectives

There are two fundamental approaches to institutional security. One approach, static security, involves the use of coercive control over inmates, including security hardware (locks, bars, etc.), technology (e.g., cameras), and restraints in dealing with troublesome inmates or those being moved within or outside institutions. Coercive control is designed to suppress violations of institutional rules. A second approach, dynamic security, emphasizes the human aspect and takes the view that humanizing institutions constitutes the best approach to institutional stability. Thus, promoting the engagement of officers with inmates both defuses tensions and allows staff to gather intelligence and to prevent incidents from occurring or escalating into major events.

Both approaches to security are present in all prisons; however, the emphasis may vary considerably. Arming officers with OC spray, as proposed by COs at Kent Institution, can be characterized as a measure that is both coercive and reactive. It is coercive in that the intent is to suppress assaultive or disruptive behaviour rather than to defuse institutional tension or improve

communication between staff and inmates. It is reactive in that its primary purpose is to respond to and to quell an existing threat.

The principal aim of this report is to review the scientific literature in order to determine, in general, which of the two approaches to security constitutes the most effective option in reducing violence in institutions and, in particular, assaults on COs. This author's task was to assemble evidence bearing on the question of the *net* effect of equipping officers with a chemical restraint, given security measures already available to personnel within a maximum security institution such as Kent. The term "net effect" acknowledges that additional coercive security measures will have both positive and adverse effects. While some attacks on officers may be repelled and possibly deterred with the omnipresence of OC spray, inmates may be inflamed by the further "weaponization" of COs, there will be questions as to the true mission of the Correctional Service, and there may be other adverse effects as well. The issue, therefore, addressed in this report is whether the overall effect of arming officers in this way is to enhance or undermine order and security within the institution.

This scientific review aims to provide an evidence-based position on the above issue. It will also help prepare CSC staff and the author for the upcoming labour hearing in April.

3.0 Methodology

Preliminary research indicated that there was no body of controlled, rigorous studies on the precise question of the impact on officer safety of adding OC spray to the standard issue of COs. Searches conducted by this writer confirmed that this was the case. As a result, this project sought to answer this question through a review of a wider body of evidence that, when compiled, could indicate the approach to security that would best protect officers and minimize institutional violence in both the near and long term.

In general, the review included works from 1995 on, although earlier seminal books and articles were also included. While the scholarly literature was the focus of the review, materials from government agencies, the correctional field, and the print media were also used as sources in this report.

The search strategy involved a combination of scientific databases and an internet search. A variety of keywords was used in both cases. Scholarly databases used included the Criminal Justice Periodicals Index, Criminal Justice Abstracts, Sage Journals Online, and the National Criminal Justice Reference Service (U.S.).

4.0 Mission Statement of the Correctional Service of Canada

CSC's Mission Statement reads:

"The Correctional Service of Canada (CSC), as part of the criminal justice system and respecting the rule of law, contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control".

The theme that public safety is promoted by helping offenders become productive members of society is also reflected in CSC's core values which stress the dignity of individuals, the rights of all members of society, the potential for human growth and development, and the belief that offenders can live as law-abiding citizens. The terms "reasonable" and "humane" control appear

in the mission statement, indicating that the security and control functions need to be proportional to the threat at hand, while the dignity and rights of the individual are always to be respected.

CSC's humanitarian approach to corrections is supported by what we know about the effects of an overly punitive or coercive correctional regime. John DiIulio (1987), author of a classic work on correctional administration, has noted that the key to a better institution is one that is safely humane. It is one where managers are strong enough to control inmates, yet are obliged to control themselves. Such a governing system can encourage civilized behaviour and administer punishment that is just and compassionate. Gomez (2008) adds that prison violence in American institutions has declined following a number of measures. Among these has been an emphasis on dealing with inmates' anger-management and mental health issues. Gomez notes that a coercive approach merely exacerbates these issues.

CSC's emphasis on a humane approach to incarceration is supported by a vast psychological literature on the role of power assertive approaches (physical punishment, threats, criticism) in delinquency and in altering behaviour. A number of studies show that delinquent families are more likely to use power assertive techniques (Blackburn, 1993:162). A punitive, authoritarian style of child rearing is likely to hinder moral development and to lead to higher aggression and lower self-esteem. The use of punishment is also said to be ineffective in modifying delinquent behaviour as aggressive behaviour is modeled and its effectiveness depends on the presence and fear of the punisher. It has been said that punishment relies on external constraints to achieve compliance, while therapeutic programs try to develop constraints within the individual that are not dependent on an external threat.

In addition, coercive approaches to control are likely to be counterproductive for some of the following reasons:

- They elicit more hostility and aggression from inmates;
- They produce less buy-in to institutional norms;
- Rule by fear loses its value as soon as the officer is out of view;
- Coercive control fails to deal with the underlying reason for aggression or rule-breaking;
- Punishment may be uncertain or delayed;
- Rule-breakers or aggressive individuals may not think of the consequences of their actions;
- Such individuals may have mental health issues;
- Offenders may be under the influence of alcohol or other substances when they commit their infractions (Gabor, 2009).

Repressive prison administrations give inmates the feeling that nothing will change, that they have nothing to lose by behaving violently, and, in fact, that violence is the only means of achieving change (Toch, 1978). Also, the evidence indicates that sanctions and punishment do not produce sustained behavioural change in inmates (McGuire, 2004). Rather, it has been found that punitive attitudes and confrontational approaches undermine treatment effects and staff must model appropriate problem solving behaviour in order to foster improved inmate behaviour (Marshall et al., 2002). Effective correctional programming has many benefits, including the creation of a safer institutional environment (French and Gendreau, 2003). The working

relationship between staff and inmates accounts for about one-third of the behavioural change observed in inmates (Lambert, 1992). A repressive approach is counterproductive to such change. Many countries have shifted to a human service model as there is little empirical support for a punitive approach to corrections (McGuire, 2002; Serin, 2005).

As a final illustration of the futility of a justice system that leans toward a punitive approach, criminologist Tony Platt (2001) makes the point that the U.S. has the largest, most complex, most expensive, and most punitive system of justice in the world and has a level of insecurity about crime that surpasses any Western country. America also has the highest per capita prison population in the world (Gabor, 2008). Platt notes that despite a highly punitive system, there is a greater emphasis on carrying weapons, target hardening, neighbourhood watch programs and self-protection than in other countries. According to the U.S. Department of Justice, the re-arrest rate following release from prison is still about 70% (Langan and Levin, 2002), indicating the limited deterrence of a system that is largely retributive, overcrowded, plagued by a high level of violence, and that warehouses many offenders relative to other Western systems.

5.0 The Statistical Picture: Actions Committed by Inmates Against Officers

Assaults against COs involving major bodily injuries or fatalities are quite rare. Light (cited in Wortley, 2002:118) examined assaults on guards in 31 New York state prisons and confirmed that assaults in general are quite rare. He found that less than two percent of inmates had assaulted an officer during the previous year. Just three percent of these assaults were considered serious, involving the loss of blood or necessitating emergency medical treatment.

Data on Kent Institution provided by CSC also supports the observation that attacks on officers involving major bodily injuries are not common (Table 1). Over the past two years, there were fewer than two dozen attacks that produced injuries or about one per month. As officers are required to report such incidents (Commissioner's Directive 568-1) and as they occurred within a maximum security institution, it is likely that the figures provided by CSC do not underestimate the number of these more serious attacks. In addition, there were 135 incidents (including threats) not resulting in injuries or less than 6 incidents per month during the two-year period.

While not diminishing the victimization of officers, it is noteworthy that all the injuries were classified as "non-serious"—usually lacerations and abrasions. CSC's records of the incidents indicated that few cases required outside medical care and few, if any, resulted in hospitalization. The most common attacks on officers involved the throwing of objects at them or being punched or kicked.

Table 1 – Assaults on Staff at Kent Institution for Fiscal Years 2007/08 and 2008/09

Incident Date Year	Method1 E	NON SBI	No Inj	Grand Total
FY2007-2008	GROP-GRAB	1	0	1
	OTHER METHOD	0	5	5
	PUNCH/KICK	2	10	12
	SPIT	0	9	9
	THREA-PHYS-VIOL	0	1	1
	THREAT – STAB	0	1	1
	THROWING OBJECT	5	20	25
	(blank)	0	14	14
<i>FY2007-2008 Total</i>		8	60	68
FY2008-2009	OTHER METHOD	1	4	5
	PUNCH/KICK	10	16	26
	PUSH/SHOV	0	1	1
	SPIT	0	4	4
	THREA-PHYS-VIOL	0	5	5
	THREAT – STAB	0	1	1
	THREAT.W/WEAPON	0	1	1
	THROWING OBJECT	2	36	38
	(blank)	2	7	9
<i>FY2008-2009 Total</i>		15	75	90
Grand Total		23	135	158

Source: Correctional Service of Canada

6.0 Findings of the Literature Review

The literature review revealed valuable information that could guide policy-makers and correctional managers in the decision to arm COs with OC spray and other weapons. Scholars note that the delicate balance institutions must maintain, between security and humane treatment, could be compromised by increasing the emphasis on coercive control measures. Thus, as the next section will show, giving officers such a tool is not likely to be viewed as a neutral event by correctional staff or inmates.

6.1 Importance of Situational Factors in Institutional Misconduct

The traditional view of prisons, shared even today by some officials and institutional staff, is that prisons house society's refuse—people who are intractable in their contravention of society's rules. According to this view, violence in prison is inevitable and is imported into institutions by individuals who are unwilling or incapable of functioning in society or abiding by its rules. According to this perspective, there is a fixed potential for violence in institutions, due to the nature of the population housed therein, and that nothing short of very tight control and vigorous suppression of misconduct can minimize the violence. The routine carrying of chemical restraints by officers fits well with this view. Those holding this view might say, "Why not equip officers with the most effective tools in deterring and repelling attacks? What harm could it possible produce? There is much to gain and nothing to lose!"

There is some empirical support for the importation model of prison violence—the notion that institutional violence is a product of the attributes inmates bring with them. However, many studies show only a weak link between the individual attributes of inmates (e.g., race, age, criminal record, offences committed) and institutional violence and show that institutional management plays a more influential role (Boin and Rattray, 2004). Light (cited in Wortley, 2002) found that prison violence is usually determined by situational factors and not personal attributes. The entire field of correctional administration is founded on the notion that the manner in which an institution is managed and the culture therein play a critical role in institutional behaviour.

More generally, the evidence in both criminology and psychology has been mounting for over two decades regarding the extent to which situational factors, rather than mere personal traits, influence human and criminal behaviour. Entire books have been devoted to the topic of how crime and violence can be prevented by manipulating the physical environment, changing the culture of an organization, or altering the opportunities available to engage in rule-breaking (Clarke, 1997; Gabor, 1994a; Jeffery, 1977).

In criminology today, there is a very influential theoretical perspective, referred to as Rational Choice Theory, that views offenders as somewhat rational and as taking decisions about crime and targets based on some form of calculation of costs, benefits, and alternative courses of action (Clarke, 1997). Studies on prison disturbances have usually found that some institutional reform served to at least precipitate the disturbance (Colvin, 1992). We also know that deaths in institutional custody, whether due to an assault or self-inflicted, also do not occur at random times but disproportionately following an institutional transfer (Gabor, 2007). This finding is an indication that these actions are often triggered by some external event, rather than internal psychological processes. Variations in the extent of misconduct in institutions at the same security level indicate that violence and other misconduct are, at least in part, due to the management style and environment prevailing therein (Wortley, 2002:118). Light (cited in Wortley, 2002: 118), in his study of inmate assaults of COs in 31 New York prisons, found that individual-level factors were poor predictors of the severity of such assaults.

One classic experiment on a university campus in 1971, the Stanford Prison Experiment, is especially relevant as it illustrates how behaviour is influenced by the role in which an individual is thrust and how the dehumanization of prisoners creates a highly adversarial relationship between COs and inmates (Zimbardo, 1971). A mock prison was constructed in the basement of Stanford University's Psychology Building in which rooms were converted into cells with the installation of metal doors. Two dozen middle-class college male volunteers were *randomly* assigned to two groups—guards and prisoners. There were no known differences between the two groups prior to the experiment.

The study began when the “prisoners” were surprised at their residences by local police, who had agreed to cooperate with the study. The “prisoners” were arrested, booked, searched, stripped naked and faced other humiliations that closely resembled those prisoners experienced at the time. The “guards” were issued uniforms and were given the opportunity to assert control by performing inmate counts and administering mild punishments (e.g., push-ups) for non-compliance.

Within a few days, the “guards” had become abusive and the “prisoners” were displaying acts of rebellion and defiance. There was a full-blown “revolt”, a planned escape, one “prisoner” staged a hunger strike, while others seemed to break down psychologically. Even the researchers who acted as wardens and prison officials got lost in their roles. Dr. Philip Zimbardo, the principal

investigator, felt compelled to terminate the study after six days when a graduate student displayed horror at the sight of the prison conditions. He stated that an “overwhelmingly powerful situation” had been created in which the conduct of a group of students was profoundly influenced by the new role in which they were thrust (that of a guard or inmate), rather than by any known pre-existing differences in temperament between the two groups.

In another experiment conducted by Australian researchers, three different types of prisons were simulated (Lovibond, Mithiran & Adams, 1979). The first type was a simulation of a "standard custodial" medium security prison. The second added training for the guards that focused on teaching them how to reinforce self-respect among prisoners, while maintaining security. The third type, the "participatory" prison, removed the focus on security and trained the guards to encourage and reinforce pro-social, responsible prisoner behavior. In this prison, the guards were taught to respect the inmates, see their individuality, and to involve them in decision-making. The violence exhibited by both guards and prisoners varied across prison types. The greatest brutality was seen in the "standard custodial" prison and the least was seen in the "participatory" prison.

One observer notes that perhaps the first step in reducing prison violence might be to ensure that guards have a shared vision of the purpose of prison, the role of authority, and of prisoners as individual human beings (Gross, 2008). This vision must be upheld by superiors who actively monitor that the guards retain their own sense of humanity.

There is an abundance of additional scholarly evidence supporting the idea that violence is more than a mere product of temperament and personality traits. Many ordinary citizens are known to break organizational rules and violate the law, given the right set of circumstances (Gabor, 1994a). Most people violate rules only in certain contexts and many of those prone to violence only manifest this tendency in certain settings or situations. The most violent people are not violent all the time, indicating that they are sensitive to a host of situational factors.

Boin and Rattray (2002) propose a threshold model of prison disturbances. They argue that riots are fairly rare events and cannot be attributed simply to deprivations as unpleasant conditions abound in all institutions, albeit to different degrees. Prisoners are deprived of their liberty, their movements are closely controlled and monitored, and they may have to deal with violence, overcrowding, bad food, noise, and a host of other adverse conditions. The authors argue that riots are products of institutional decline. Institutional decline is displayed by such things as a rift between prison officials and staff, a failure in institutional leadership, the erosion of legitimacy, and an inability to manage change in a constructive fashion. The slightest trigger can produce a full-scale disturbance in an institution that is vulnerable as a result of such decline.

Thus adding a coercive tool that is an offensive weapon can make a difference in altering the climate of an institution. Inmates may perceive such a measure as a further assertion of power by officials. It can also embolden guards and lead them to focus on the use of force as opposed to other means of conflict resolution. CSC's mission is centered around core values such as treating individuals with dignity, recognizing that people can grow, believing that offenders can become productive citizens, and that human relationships are at the core of the correctional system (see Section 4.0). In this context, it is unlikely that introducing a chemical restraint to officers' standard issue would be perceived as a neutral event. It is a measure that carries much symbolism, appears to undermine the message the Correctional Service is trying to send its officers about humane treatment, and may be poorly received by inmates expecting a different means of conflict resolution from staff.

6.2 Management Styles and Security—Coercive versus Remunerative Control

Correctional administrators distinguish between controlling prisoners through coercive techniques, such as institutional rules and sanctions, and controlling through incentives. Wittenberg (1996) discusses the importance of maintaining a balance between security needs and inmate programs and operations, such as recreation, inmate movement, and visitation. He argues that control within a correctional setting is one of selective balance. A crisis often occurs when the balance within the environment is disrupted, either because of inmate activity or a management decision. Because correctional managers know that inmates often resist change, considerable thought and good rationale must accompany it. Well-run facilities are those that emphasize "care, custody, and control [and] that are safe, clean, and humane".

In his classic study of the 1980 riot at the Penitentiary of New Mexico (PNM), Colvin (1992) discussed how the removal of remunerative controls (incentives) disrupted inmate-staff relations and triggered the disturbance. There was a change of control from incentives to coercive control. Behaviour theory and experience indicate that incentives, such as prison work assignments or program involvement, can promote inmate compliance with facility rules. Removal of such incentives also can be an effective intermediary sanction that can be applied before invoking coercive controls, such as solitary confinement. Steiner (2009) argues that that granting inmates work assignments within a facility not only offers inmates a reward for their behavior, but also might structure inmates' time, limiting opportunity for deviance and possibly control their behavior through positive interactions. Therefore, those institutions having more inmates with work assignments may have lower levels of inmate violence. Huebner's (2002) investigation revealed that prisoners involved in work programs were less likely to assault staff.

At PNM, years of accommodation from the late 1960s to the mid-1970s were followed by several years of confrontation (1975-77). The 1960s and early 1970s were marked by an emphasis on a philosophy that emphasized correctional treatment and vocational training. A conservative political shift in the state and country, growing questions about the value of a rehabilitative philosophy, and a growing heroin trade in the prison led to the hiring of a new warden who complained of lax security and the treatment programs. He dismantled much of the reward system in prison. Many officers had also bought into a treatment-oriented approach and there was a battle in the correctional bureaucracy between proponents of custody versus treatment. The changes and ambivalence produced confusion and frustration as the prison was fraught with contradictions. The riot that ensued in 1980 was unrivalled in the brutality displayed by inmates against other inmates and in the injuries to staff (Colvin, 1992).

Thompkins (2005) notes that there is an underlying conflict in institutions between the keepers and the captives that can erupt into open confrontation. This relationship can promote an "us versus them" environment between inmates and guards (Johnson, 1987). According to Thompkins, social control is often maintained through compromises negotiated between inmates and staff. The extent to which management will lose control over inmates can be measured by the degree to which inmates answer "nothing" to two questions: What have I got to lose? What have I got to gain? Thompkins argues that as remunerative compliance is replaced by coercive compliance, inmates feel they have nothing to lose because there is nothing to gain. Thompkins notes that levels of prison violence vary according to such things as the availability of treatment and educational programs, the types of social control policies enforced at an institution, and inmates' perceptions regarding the level of punitiveness of institutional policies.

DiIulio (1987) argues that the management model provides a better explanation for prison violence than does the importation model, as there are many ways in which officials can control the most violent inmates. He and others have suggested that both individual and collective levels of violence are the result of failed prison management, including lapses in institutional security, a lack of discipline among staff, and increased levels of inmate idleness (Gaes and McGuire 1985, DiIulio 1987). Farmer (cited in Thompkins, 2005) has suggested that improved management strategies can have a positive effect on reducing levels of violence even within institutions that have long histories of violence.

Bottoms (1999:205) adds: “The incidence of acts of interpersonal violence in prisons is influenced by the characteristics of inmates but also by aspects of the prison environment and by the continual dynamic interaction between prisoners, prison staff and the physical and social context...Enhanced physical restrictions can often reduce levels of violence due to restrictions on opportunity but may also sometimes lead to a loss of legitimacy that can escalate violence.”

McCorkle, Miethe, and Drass (1995) investigated the strength of the deprivation (focuses on overcrowding and overall conditions) and management models in explaining prison violence. Their sample included 371 state prisons and they used measures of both individual and collective violence. They concluded that the deprivation models were less useful in explaining rates of institutional violence. They suggested that there is a link between administrative practices and violence. Specifically, poor management is a predictor of rates of assault against staff and inmates. Their data suggest that institutional programs are a useful management tool which has been shown to reduce levels of prison violence. It is further suggested that those inmates who participate in programs are more likely to make rational decisions concerning the use of violence, because they are invested in and believe in the promises associated with being involved in treatment and educational programs.

An institution, especially one that is a maximum security prison, can risk crossing the line and tilting toward a coercive model of control by providing additional coercive tools to COs. Such a step may exacerbate the polarization of the institution into antagonistic camps. This polarization may not only set the stage for an increased level of violence but may have other adverse effects on those living and working in the prison. Ted Conover (2001), an award-winning journalist who went underground and worked as a correctional officer, has written about the ongoing tension and stress of the job, especially one in which there is a profoundly antagonistic relationship between the inmates and officers. He notes that the mental health of officers is seriously compromised in such an environment. Guards risk being further isolated both from officials and inmates, a common complaint. Kauffman (1988) adds that COs bring work home and may be aggressive or withdrawn at home, producing marital tensions.

Smith and Hepburn (1989) note that COs require the cooperation of inmates for their own safety. An excessively tough and aloof approach may lead to work slowdowns and disciplinary problems that reflect poorly on an officer. Officers need to develop working relationships with inmates to avoid hostile reactions. Relying on mostly coercive power runs the risk of retaliation and may produce the appearance that they cannot control inmates.

Kauffman (1988), in his observations of Massachusetts prisons, found that the use of force was not effective as it does not deal with the inherent friction between guards and inmates. It also fuels inmates' anger rather than suppressing resistance. Eventually, after being repeatedly beaten, inmates feel they have nothing to lose through misconduct.

6.3 Intelligence Work in Prison

There are numerous examples of cases where prison intelligence officers have sifted through bits and pieces of information, decoded messages, read prison letters and listened to hours of monitored recorded inmate telephone conversations to uncover information that was critical to the solution of crimes committed within an institution. Among the basic duties of intelligence officers is to follow up on intelligence received from staff.

The sharing of information about threats, impending attacks or misconduct is critical to the prevention of violence (Gabor, 2007). A key component of the information shared is provided by front-line officers to security and mental health staff. The more the institution relies on coercive control, the more difficult it becomes to generate such information and, hence, to prevent violence from occurring.

“It is down to prison staff, particularly those on the wings, being sharp and alert and keeping one step ahead of any power bases of gangs building up. It is very much about dynamic security” (Her Majesty’s Prison Service, n.d.). Looking for patterns in this intelligence can also help to identify if any gang issues or associates are involved. Gill Brigden of HM Prison Service writes: “Analysing what any violent incidents on a wing are really about can go some way to help resolving the problem. For example, does the perpetrator belong to a certain group who has issues with the group the victim belongs to, meaning the symptoms of the violence are actually gang related.”

Patterns in Security Information Reports (SIRs), particularly regarding drugs and gang involvement, can lead to similar conclusions. If there is limited information on some prisoners when they first arrive in reception, it can mean officers may not be aware that this particular individual is linked to a certain gang. The prisoner might well be placed on a wing together with a rival gang member which can ignite turf wars - something that can be successfully avoided if intelligence is available. Brigden adds: “The placing of gang members on certain wings in relation to their rivals has to be handled very carefully and further improving the information available on prisoners as soon as they arrive at an establishment can help this enormously.”

It is this intelligence-led segregation, along with close monitoring, effective intelligence sharing, and dedicated staff that prevents gangs from building up power bases within the prison. Thus, dynamic security, looking for patterns in intelligence, close monitoring of gang members, sharing of information, building close relationships with external agencies and partnerships to share intelligence, along with tackling the drug and violence issues that often accompany gang members, can all help to keep gang culture under control in institutions.

It is important to stress that written rules are not the only basis for institutional security. Most, if not all, institutions have an informal structure of norms and relationships that is critical to its operation. There is often an elaborate network of relationships between institutional staff and inmates (“snitch system”), in which staff learn about contraband, potential disturbances, and other threats to security from inmate informants. In return, the inmate may receive certain privileges or protection. While prison managers may hesitate to acknowledge the presence of such a system, researchers have found that it may be elaborate (Marquart and Crouch, 1992). Providing additional weapons to officers and related coercive measures can undermine the ability of staff to develop the relationships that yield such valuable intelligence.

Ruddell and his associates (2006) surveyed 134 jail administrators in 39 states on the topic of gang violence and the most effective responses to it. Apart from segregating gang members, these managers rated the most effective response to gang violence to be intelligence gathering and information sharing with other agencies.

A final illustration of the importance of building relationships with inmates is provided by Wittenberg (1996) and his study of the special and changing argot inmates use to make their communications elusive to outsiders. Wittenberg asserts that officers must learn this secret terminology in order to pick up signs of impending violence or misconduct. Officers need special training and must get close to inmates to decipher their communications.

6.4 Violence as Resistance

McEvoy (2001) asserts that prison violence is a “direct challenge to the prison authorities, it is a direct appropriation of power. The state’s monopoly on the use of force is challenged... Violence is resistance through infliction.” McEvoy observes that many of the killings of prison guards during the Irish conflict were a form of resistance to perceived oppression by the British. McEvoy notes that prison violence has been linked to such things as the availability of educational and self-improvement programs, staff communication skills, the training of COs, and the willingness of officers to use violence as an instrument of power.

Organized prison violence has been attributed by some scholars to prisoners protesting their treatment or the conditions of detention. Light (cited in Wortley, 2002) has asserted that: “Prisoners constantly evaluate the legitimacy of the command in relation to powerful unofficial norms. Conduct which is perceived as arbitrary, capricious, spiteful, unnecessary, or petty may be viewed as an occasion for resistance.” Violence can be a response to or anticipation of violence by officers or other inmates. Wortley (2002) states that guards are often assaulted due to such things as defiance over new rules or threats to inmate masculinity and power.

Light (cited in Wortley, 2002: 119) found that the most common assaults by inmates against officers were acts of expressive violence (acting out without regard to consequences) directed toward the system in general rather than the officer. The next largest category involved acts of defiance against an officer’s direct order. The third largest category involved what Light referred to as “protest”. In these cases, prisoners viewed themselves as victims of unfair treatment and trivial, inconsistent, or arbitrary rules.

According to Boin and Rattray (2004), a well-functioning institution is characterized by an established pattern of interaction between staff and inmates that provides for an effective way of dealing with the normal stresses of imprisonment. Rules, procedures, and routines must be accepted as legitimate by both staff and inmates. These established patterns of interaction allow prisoners to deal with their confined living environment and permit prison officers to relax and feel safe. Any change to these interaction patterns can create instability. Changes, whether originating from outside or from within the institution, affect the relationship between staff and prisoners. The authors note that promoting the legitimacy of any change is paramount and the rationale for such change needs to be carefully explained to inmates. It is not far-fetched to say that adding a weapon like OC spray will not be perceived as legitimate by inmates nor is it likely to be viewed by them as a measure designed to better carry out CSC’s mission of helping inmates become law-abiding citizens. It is likely to be seen as simply an additional coercive measure.

That the use of OC spray is likely to be viewed as a coercive and dangerous practice is illustrated by the following petition filed on behalf of death row inmates in the State of Texas (Petition, 2005). This petition, signed by hundreds of inmates and supporters, and transmitted to the Texas Department of Criminal Justice and the Governor of Texas, claims that the use of pepper spray by officers has been increasing. The petitioners claim that it is a method of torture and human degradation under the guise of security.

An excerpt of the petition reads as follows:

"We, the petitioners, wish to express our deepest concern over the fact that numerous inmates have been claiming excessive use of pepper spray against death sentenced, defenseless inmates by correctional officers on Texas Death Row – Livingston, TX. More and more often, pepper gas is being used as a retaliation tool against inmates the correctional officers dislike, instead of strictly as a tool to get a threatening situation under control. Use of pepper spray is a potentially lethal practice. It is a suspension of the active ingredient pepper, usually compressed by air in a canister suitable for spraying, and correction staff in some states [use it] as a means of "violent behaviour control". The reality is that pepper gas is not only being used to control violent behaviour and to maintain control, but more and more often, especially the latest year, as a retaliation tool against inmates correction officers dislike.

...Amnesty International condemned the usage of pepper spray for any reason citing its use as "an unreasonable use of force". Additionally, The San Francisco federal appeals court ruled on May 4th of 2000, that the use of Oleoresin Capsicum (OC) spray (also known as "pepper spray") may in some circumstances constitute an unconstitutionally "unreasonable use of force". Amnesty International has repeatedly stressed that due to the risks associated with pepper spray, its use is questionable under any circumstance. In addition to the above-mentioned problems with pepper spray, it should be in the authorities' interest to know that Amnesty International is renewing its call on the U.S. federal authorities to establish an independent nationwide review of the use of OC spray by law enforcement and correctional agencies.

...It is time for the Texas Department of Criminal Justice leadership and Governor Rick Perry to offer sufficient education and training to all correction officers. As a profession, the Texas Department of Criminal Justice should demand their officers be armed with skilled professional qualifications, and not rely on the use of pepper spray and other suppression tools to maintain order."

This petition, if in any way representative of inmates in other institutions, suggests that the introduction of OC spray as standard issue to officers will likely be viewed as an illegitimate and coercive measure that is inconsistent with the mission of the Correctional Service of Canada and its commitment to operate in a humane fashion.

6.5 Parallels With the Debate on the Defensive Use of Guns and Tasers

The current case initiated by COs at Kent Institution has many parallels with the longstanding debate on the value of firearms as a protective tool for civilians. In addition, a very vigorous debate in Canada and the U.S. has emerged in relation to the use, by law enforcement and correctional officers, of CEWs (conducted energy weapons) produced by companies such as Taser International. Tasers, to be discussed below, allow one to immobilize a subject with a high voltage shock from a distance, in contrast to “stun guns” that require physical contact with the subject to transmit the shock. Taser International now produces a weapon that can transmit a shock both ways.

For many years, the debate as to whether firearms were useful tools in personal defence was highly partisan and the evidence produced was anecdotal. Cases were used to illustrate both sides of the debate. It was clear that there were cases in which guns were successfully used to ward off attackers or intruders and other cases illustrating that firearms purchased for self-defence or some other reason were eventually used to unlawfully shoot somebody (often a family member), to commit suicide, or were involved in tragic accidents, including those involving children. In other cases, guns were stolen in break-ins.

In the 1990s, the debate became more sophisticated as the question debated was no longer the naïve one as to whether a firearm was harmful or afforded protection. It now became one of the *net* benefits/liabilities of owning or carrying firearms for self-protection. This evolution of the debate acknowledged the fact that guns could be used both for protection or harmful purposes. The question now became one of the number of defensive versus harmful uses.

While a few discredited studies have claimed that civilian gun ownership promotes public safety and constitutes a net benefit in protecting the owner, the overwhelming majority of rigorous studies have found that:

1.Criminal uses of firearms substantially outnumber defensive uses.

National and local studies in the U.S. show that guns are many times more likely to be used for criminal purposes or to be misused in some other way (in suicides or accidents) than they are to be used in self-defence (Hemenway, 2004: 69; Kellermann and Reay, 1986; Sugarmann,2002: 65; Gabor, 1997). Thus, while a weapon may be obtained for self-protection, it may be misused by the owner/user or by others. Five criminal court judges in the U.S. reported as illegal more than half of the reported “defensive” gun uses reported in a major national survey (Hemenway, 2004). This same notion of the overuse of a weapon for a purpose other than that for which it was intended also relates to OC spray. The abuse of OC spray is a concern, as there have been reports that police and correctional officers have used pepper spray in an aggressive fashion to punish inmates and for purposes other than purely defensive ones (Petition, 2005).

2.Weapons designed for self-defence often cannot be activated.

A number of studies suggest that carrying a weapon offers no guarantee that one can use it against an attacker or intruder. Offenders usually do not telegraph their intentions and it is they who pick the timing and location of their attacks. An Atlanta study using police records revealed that less than two percent of home invasion victims used a gun in self-defence (Kellermann, 1995). In another study, Yeager and his colleagues (1976) found that victims could only draw weapons in 3.5% of robberies.

3. Arming individuals may lead to dangerous escalation.

When potential victims arm themselves, offenders who launch an attack may use overwhelming force to pre-empt the ability of the victim to ward off the attack or to prevent retaliation. One survey of felons, in fact, found that half had armed themselves due to the belief that the victim may be armed (Wright and Rossi, 1986). This finding lends credence to the idea that arming for self-defence can trigger an arms race. This phenomenon has been observed in many American cities and could occur to a lesser extent within an institutional setting (Wright, Sheley, and Smith, 1992). Escalation is a concern when one considers that the usual attacks on officers involve such things as throwing objects, rather than vicious attacks designed to cause serious injury to the officer. Offenders may get enraged when chemical rather than more passive restraints are used against them. CSC data on attacks on officers (Table 1 above) at Kent Institution rarely involve weapons and there is much room for escalation in terms of the viciousness of these attacks. Those determined to attack an officer may try to incapacitate the officer due to the fear of the OC spray.

4. Arming individuals may increase the unnecessary and reckless use of force.

Carrying arms may embolden the individual and lead that person to put himself in situations he may have otherwise avoided (Hemenway, 2004: 70). Rather than try to resolve conflicts in a nonviolent manner, an armed individual may turn to weapons prematurely, rather than as a last resort. Serious errors may occur when stress levels are high and decisions must be taken instantaneously (Diaz, 2001). Even trained police officers are known to make some catastrophic errors in using their weapons against the wrong people or by misjudging the threat (Hemenway, 2004: 70-71). The reckless or disproportionate use of force by COs, as well as errors in judgment, may destabilize an institution, making it a more dangerous place for officers.

5. Collateral Damage

David Hemenway, a Harvard University researcher who is one of the most prolific researchers on the issue of firearms use and policy, recounts a 1997 robbery in Jacksonville, Florida in which a 17-year-old robber entered a restaurant, ordered the 30, mostly senior, patrons to the floor and demanded that the waitress open the cash register (Hemenway, 2004: 75). Two elderly, armed patrons opened fire on the teen and shot him. He fled but was subsequently arrested. While armed self-defence in this case appeared to be effective, Hemenway speculated as to whether the welfare of the other patrons would be served in such cases by routinely opening fire in a crowded room.

While pepper spray lacks the lethality of a firearm, collateral damage can take a number of forms. The officer may face back spray. Inmates other than the one threatening an officer may be affected by the spray. The use of a spray in a crowd will likely provoke anger and a sense of injustice on the part of inmates who have not been involved in the incident. Injuries may be experienced by uninvolved parties. It is conceivable that a disturbance may result.

Problems can arise when using pepper spray, especially when the wind direction does not cooperate (Texas Youth Commission, 2008). If one is attacked outdoors on a windy day, the spray may blow back into the user's face when the officer aims for the attacker. Also, if the attacker sees the stream of spray coming, he may be able to avoid it. Pepper spray comes with a locking mechanism on the trigger to prevent accidental discharges. This mechanism can sometimes be difficult to disengage, thereby reducing its effectiveness as a defensive tool.

The standard practice of not issuing firearms to COs within the perimeter of an institution is sensible, as it prevents scenarios in which an officer can be overpowered and lose his weapon to an inmate. Likewise, trained police officers can be disarmed and they are sometimes shot with their own weapons. The use of chemical restraints like OC spray raise the possibility that inmates may take possession of canisters of this substance and use them against officers or other inmates. Another danger is that arming COs raises the risk that officers may face criminal charges for the disproportionate use of force. In Victoria, Australia 1,500 prison guards handed in their guns and gun licences after a fellow officer was charged with murder for shooting an inmate (Cusak, 2003).

Sugarman (2002) makes the point that if guns promoted safety there would not be more violence in regions of the United States with higher levels of gun ownership. This observation, also found in many international comparisons in which homicide rates tend to increase with gun ownership levels (Gabor, 1994), indicates that weapons, at least in a civilian context, tend to be used more for mischief than for legitimate defensive purposes.

Hemenway (2004: 78) of Harvard sums up the issue as follows:

“Surprisingly, although protection and self-defense are the main justifications for a heavily armed citizenry, there is little evidence of any net public health benefit from guns. No credible evidence exists for a general deterrent effect of firearms. Gun use in self-defense is rare and it appears that using a gun in self-defense is no more likely to reduce the chance of being injured during a crime than various other forms of protective action. No evidence seems to exist that gun use in self-defense reduces the risk of death...”

Tasers

Taser is really a brand name for a conducted energy or electro-shock weapon that disables the target by administering a powerful shock. The handset fires two barbs or darts that penetrate the skin and electricity flows through electrodes connecting the barbs with the handset. Although it is less lethal than a firearm, there are some fatalities and some organizations, such as Amnesty International and the American Civil Liberties Union, have called for its reclassification as a lethal weapon (Associated Press, 2009). This said, its lower level of lethality makes its properties and impact relevant to discussions about the suitability of OC spray in a correctional environment.

The State of Oregon has been training 100 correctional officers in the use of Tasers in situations necessitating the use of force (Associated Press, 2007). This development has created an uproar among inmates and civil rights activists who claim that the weapons are being used to punish inmates, including the mentally ill. Seventy people, including inmates, activists, and concerned citizens have submitted written objections to this new policy. Unlike the petition to arm Kent Institution officers with OC spray, the use of these weapons would be confined to specially trained officers only and their deployment would occur only after approval from superiors, including the prison superintendent.

An increasing number of police departments in the US are ordering Tasers for their officers (Axtman, 2004). Several departments, such as Miami, Seattle, and Phoenix, report a decline in fatal shootings. However, concern is being raised about the use of Tasers in a wider range of incidents, due to their lower fatality rates (Marks, 2005). This concern receives some support from an analysis conducted by the Royal Canadian Mounted Police (2008) in the first quarter of

2008. Their analysis indicated that Tasers were usually deployed against combative subjects or those putting up an active resistance. More than 80 percent of deployments did **not** involve incidents in which there were death threats or grievous bodily harm. Moreover, in three percent of the cases, the subject was simply not cooperative or displayed passive resistance only. It is very unlikely that, in the absence of a Taser, a firearm would have been deployed in cases involving passive resistance and even in many cases involving combative subjects. If this assumption is correct, then Tasers, due to their perceived non-lethality, were being used in circumstances where firearms would not have been deployed.

In recognition of the risks associated with the deployment of Tasers, the RCMP has modified its policies as to the use of these weapons (Royal Canadian Mounted Police, 2009). Tasers can no longer be used in the case of those who actively resist an officer's orders and can only be used if the officer or the public is in danger. Thus, the overly liberal use of the Taser necessitated the introduction of policies that will now limit the use of the weapon.

In a new directive by the U.K. Home Secretary, Tasers are to be issued to *specially trained units* and to be used only in *specific circumstances*; namely, those in which serious threats of violence are anticipated (Home Office, 2007). The U.K. policy was introduced only after some careful evaluation of the physiological impact on targets (Association of Police Chiefs, 2008). Other evaluations of Tasers have pointed out that they are not always effective in subduing subjects and their use can give rise to lawsuits (Paige, 2007).

In New Zealand, the Corrections Department has taken the decision not to issue Tasers to correctional officers. One concern is that, just as with firearms, there is a danger that these weapons will be used against officers (New Zealand Herald, 2008). Police entering prison in disturbances may be given approval to use them once police officers obtain Tasers.

To summarize, Tasers do appear to have reduced fatalities when used by police in lieu of firearms. There is evidence, however, that their *perceived* non-lethality has led, in some jurisdictions, to their use in a wider range of incidents than those in which a firearm would have been used. This situation has led to the establishment of very strict limits or guidelines governing their use (e.g., in Canada and the U.K.) or to their outright rejection (the New Zealand Corrections Department). Strict limits on their use, as a reaction to their overuse, limits their impact and utility as a restraint. In the State of Oregon and elsewhere, their introduction in a correctional environment has created a major uproar by inmates and their advocates. Tasers are also not always effective in neutralizing an aggressor and their use has been accompanied by numerous lawsuits.

7.0 The Anticipated Impact of Issuing OC Spray to Correctional Officers On a Routine Basis

The purpose of this review was to determine the anticipated net effect of introducing OC spray as standard issue to officers at Kent Institution in British Columbia. The term “net” is used in recognition of the fact that anecdotal evidence can be introduced in support of both sides of this issue. Those establishing policies and procedures in correctional institutions cannot rely on anecdotes but must weigh the evidence on both sides. The purpose of this report is to determine which position is supported by the preponderance of the evidence.

CSC’s mission of operating secure, but humane, institutions and promoting the personal growth of inmates, as well as their re-integration in society, is supported by a substantial body of evidence that creating an institutional climate offering incentives, programming, and work assignments to inmates is more productive in creating a safe institution than one that adopts a coercive model of control. A coercive model emphasizes static security measures, limits inmate movement, and maximizes the use of restraints to secure an institution.

The research literature shows that focusing on coercion rather than incentives exacerbates the anger and mental health issues of inmates and undermines the legitimacy of the institutional regime in the eyes of inmates. Inmates are likely to emerge from such an experience more angry and violent than when they entered. A punitive institution is not one that is likely to promote the rehabilitation of inmates. In fact, studies of COs also indicate that an institutional environment that increases the divide between correctional staff and inmates is both less safe for officers and takes a toll in terms of the stresses produced by the daily tensions of working in such a polarized, “us vs. them” environment.

Correctional staff are models for inmates. If they rely primarily on weapons and other coercive methods of controlling inmates, they convey to inmates that the use of power, rather than negotiation and compromise, is the most appropriate means of dealing with conflicts. Higher levels of aggression by COs will produce more aggression by inmates. The use of coercion is not the way to foster buy-in to institutional rules. A reliance on coercion has many additional counterproductive effects that have been discussed above and that are summarized in Table 2.

Table 2 The Anticipated “Net” Impact of Issuing OC Spray Routinely to Officers

Potential Benefits	Limitations/Disadvantages
Can repel attacker	<ul style="list-style-type: none"> -May not be deployed in time -Attacker may avoid spray or it may be ineffective -Only a benefit where attacker could not be restrained by other means and where the OC could not be deployed in time from a control point -Officer can be disarmed and OC can be used against him or other staff -Officer may be harmed by back spray - Bystanders (other officers or inmates) may be harmed
Can deter/prevent attacks on officers	<ul style="list-style-type: none"> -Marginal (additional) deterrent effect questionable as other restraints already available to staff at Kent and OC is available in the institution -Sanctions are also a deterrent and the probability of their imposition is high in a maximum security institution -OC’s value as a deterrent is limited as there are already few attacks on officers serious enough to warrant its use and many attacks are expressive acts of violence -May fuel inmate anger and defiance, leading to more attacks on officers -May produce escalation as inmates launching attacks on officers may use weapons to overcome OC and prevent retaliation
	Other Disadvantages
	Contradicts CSC’s Mission by providing officers an additional coercive tool, a chemical weapon, that differs qualitatively from more passive restraints
	Encourages officers to use weapons rather than non-violent means of conflict resolution or other restraints
	Officers may abuse OC and make errors in predicting an attack, producing harm to inmates, raising human rights concerns, discipline and possible dismissals of officers, and lawsuits
	Models aggressive behaviour, communicating that the use of weapons is appropriate in institutions
	Can create a more polarized climate, interfering with programs and undermining the legitimacy of management and the system of control prevailing at Kent
	Introducing a new weapon can destabilize Kent and even produce a disturbance
	May increase institutional tension, thereby raising officer stress levels and mental health issues
	A more acrimonious relationship between staff and inmates interferes with intelligence-gathering, an important function that can prevent violence

Table 2 indicates that issuing OC to officers full-time can theoretically offer two benefits:

- 1) Such a practice can potentially help the officer repel and restrain an attacker; and
- 2) It might serve to prevent assaultive behaviour by inmates in the first place due to their fear of having pepper spray used against them.

The potential added value of issuing OC spray to correctional officers throughout Kent Institution is limited by the following considerations:

1. While not diminishing the seriousness of threats and attacks upon officers in any way, the record of threats and attacks on them shows that there was a total of 158 incidents over the last two years of which just 23, about one per month, produced an injury to an officer. No incidents were deemed to be serious in the sense that they posed a threat to life and few required outside medical care. In addition, the majority of incidents involve threats, the throwing of objects at officers, and actions such as spitting. Just a quarter of all incidents involve a physical attack, such as punching or kicking, on an officer. Assuming that the deployment of OC spray is considered inappropriate and disproportionate in the case of incidents not involving a physical attack or those of a less serious nature in which no injuries have occurred, we are left with 12 incidents in which non-serious injuries were inflicted on an officer.

2. The question then becomes: How many of these 12 incidents per year could have been prevented or diminished in their gravity by providing COs with OC on a regular basis? Also, does the number resulting from such a calculation justify some of the adverse effects, including the possibility that inmates may view such a policy as a provocation and become more difficult to manage?

Especially relevant is the fact that OC is already stored in various control points at Kent and wardens have the authority to issue OC to officers when they have reason to believe that there is an elevated risk of violence within the institution. Thus, it is insufficient to demonstrate that OC is a superior restraint to some other tool an officer is provided. It must also be shown that the routine carriage of OC by officers will add to the product's deterrent effect or value as a restraint.

3. The extent to which inmates are monitored at Kent and other high security institutions, as well as the requirement that officers report attacks on them, makes it highly probable that the attacker will be identified and face discipline. There are few, if any, settings in which the potential to deter an attack is greater than in a maximum security institution. In no setting is deterrence 100 percent, meaning that human cooperation cannot be guaranteed in any environment, let alone among a group of inmates in a maximum security prison. Given the type of population we are dealing with and the amount of controls already in place, as well as the fact that there are just 12 injury-producing incidents per year at Kent, there is not much room for increasing deterrence, assuming that we cannot reduce attacks to zero in a modern correctional environment.

4. The concept of deterrence is based on the idea that offenders are at least partly rational. The attacker must fear the consequences of his actions, whether those consequences are being

sprayed by OC, facing discipline, or feeling guilty about harming an officer. The ability to reduce the number of attacks on officers is limited by the impulsiveness of some inmates, many of whom are likely in prison due to a lack of self-control. A large study by Light in New York State discussed above has found that over two-thirds of attacks on correctional officers are spontaneous acts that are sudden or unprovoked, in response to a command or search, or following the discovery of contraband. Such acts have no purpose other than to discharge tension or anger. In many cases, the attacker has no specific grudge against the target of his wrath. The officer is merely a convenient symbol of the correctional system and even the society against which he holds a grievance. Thus, as the majority of attacks on officers are not premeditated, just a minority of injury-producing incidents at Kent each year can possibly be deterred by raising the consequences of misconduct.

5. There are examples from other prisons of cases in which the use by staff of pepper spray (Texas) or Tasers (Oregon) has inflamed the inmate population. It is likely that the routine carriage of OC by COs would not be well received by inmates and would create a more tense, polarized, and dangerous prison environment. Not only is the ability to reduce attacks through OC limited, but its widespread carriage may aggravate the relationship between staff and inmates and conceivably increase the level of violence against staff. Issuing a chemical restraint to officers may shift the delicate balance prevailing in an institution between coercive control and control through incentives and programs. Such a weapon undermines the message CSC wishes to convey to inmates that it believes in the ability of inmates to grow and become productive citizens. Inmates may be more likely to view officers with such offensive weapons as agents of a repressive system and may become increasingly hostile and aggressive.

6. Surveys of inmates have revealed that, in civilian life, offenders were more likely to arm themselves when they thought the victim would be armed. In the same way, those planning an attack on an officer may be more likely to arm themselves if officers are armed with an offensive weapon. Attackers might be more likely to arm themselves with makeshift weapons and to use overwhelming force to ensure that pepper spray is not used against them. Arming officers, whether with Tasers or pepper spray, may trigger an institutional arms race. Inmates may do so partly as an act of defiance.

7. Evidence from the firearms research literature tells us that even armed civilians rarely get to use their weapons when attacked. Even in the United States, where almost every second household owns a gun and where many people carry concealed firearms, no more than about three percent of civilians actually deploy guns when attacked or when their homes are invaded. Attackers do not ordinarily telegraph their attacks and they pick the time and location of them. Thus, the officer being attacked often will not be able to deploy the pepper spray or will resort to other means to restrain or repel an attacker.

8. Research that has directly tested OC has found that, even when it is deployed, it is not always effective. Studies commissioned by the U.S. National Institute of Justice (2003) found that pepper spray was effective about 85 percent of the time, although this figure was reduced significantly when the subject was under the influence of drugs. One report for the National Institute of Justice (2003:9) raised the concern that “officers relying on pepper spray to de-escalate a potentially violent encounter may be placed at increased risk if the pepper spray does not work.”

9. If other officers on a range deploy their canisters of OC when a fellow is being attacked, the officer being assisted may also inhale the spray. Such collateral damage may occur in many forms. COs may experience back spray in windy conditions if they discharge their canisters outside. Officers may be disarmed and have the OC used against them, much like law enforcement officers are often shot with their own weapons. It was outside this writer's mandate to comment on the harms associated with OC spray. It ought to be noted, however, that OC has been reported to have adverse cardiac, respiratory, and neurological effects and has been associated with some fatalities, although these fatalities have not been attributed directly to the OC (Smith and Stopford, 1999).

10. Providing officers with an additional coercive tool may encourage them to rely more on such tools and less on non-violent means of conflict resolution. There is evidence that when police and corrections officers are issued non-lethal weapons, such as OC and Tasers, they tend to use them in a wider array of situations than originally contemplated. OC has a range of about 15 feet, allowing the officer to discharge it when the inmate is still at a distance and before he has necessarily displayed his intentions. This allows for the possibility that there will be circumstances in which the officer misjudges the intentions of the inmate and uses OC to prevent an anticipated attack rather than to repel an attacker. There have also been documented cases of officers using OC and Tasers as a way of avoiding physical confrontations that could have been handled through other means. Errors and abuses in the use of OC spray will raise tensions in the institution and may expose officers to legal action and discipline.

11. The atmosphere created by the routine carrying of OC, as well as the impact of its inevitable abuses, may undermine institutional legitimacy and programming, and will not be helpful in cultivating the type of relations with inmates that yields useful intelligence. Intelligence-gathering and analysis are key components of violence prevention.

It would appear that issuing OC to officers on a full-time basis may carry a heavy price, while producing little gain. OC will have little or no impact in reducing serious attacks on officers, as there are few attacks of this kind to begin with and the vast majority cannot be deterred or repelled. On the downside, such a policy shift may exacerbate violence by intimidating and provoking inmates, undermining the institution's ability to gather intelligence and thereby anticipate misconduct, and by undercutting the Correctional Service's efforts of assisting inmates to become more productive citizens.

Tables 3 and 4 summarize and quantify the arguments made above. All the figures in the two tables are based on data gathered by CSC or generated by the research literature.

Table 3 – Calculating the Deterrent Effect of Equipping COs with OC Spray on a Full-Time Basis

<p>12 attacks per year not deterred by existing penalties or restraints</p> <p>↓</p> <p>At best, 3 attacks can be deterred by OC due to the spontaneity/impulsivity of attacks</p> <p>↓</p> <p>However, an unknown number of additional attacks may occur due to the adverse effects of arming officers routinely with OC. The institutional climate may worsen, inmates may become more angry and defiant, and attacks on officers may escalate in their severity as inmates try to prevent officers from using OC against them.</p>

Table 4 – Calculating the Effectiveness of OC as a Restraint

<p>Without a change in policy, 12 attacks on officers resulting in injuries can be expected in the next year, assuming the trend observed during the last two years will continue</p> <p>↓</p> <p>Previous experience with weapons shows that officers may deploy their canister of OC in 1-2 cases, at most, due to policies limiting its use, deployment of alternative restraints, or their inability to deploy OC in time</p> <p>↓</p> <p>Studies show that OC is just 85% effective, although significantly less so when the attacker is under the influence of drugs</p> <p>↓</p> <p>While the potential usefulness of OC as a routine restraint will be negligible, the adverse effects of deploying OC may be considerable. Officers may be disarmed and the officer, other officers and uninvolved inmates may be affected by the spray. OC may be used inappropriately, leading to unrest in the institution, discipline of the officer, undermining of the legitimacy of the institution, and policies that will severely limit its use.</p>

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